

California Office  
Rockridge Market Hall  
5655 College Ave.  
Oakland, CA 94618  
(510) 658-8008  
Fax: 510-658-0630

June 28, 1995

Mr. Jean Sagouspe, President  
Central Valley Project Authority  
P.O. Box 1365  
Los Banos, CA 93635

**BY FAX AND MAIL**

**Re: A Wrackless Proposal**

Dear Jean:

At yesterday's public meeting, the CVPA Board of Directors voted (at your urging) to put off until tomorrow direct consideration of a legislative package that could be sent to Washington, D.C. as early as next week in your continuing and ill-advised rush to have a CVP "sale" (or give away) included in the Congressional Budget Reconciliation package for FY96. We write today, in advance of formal Board action, to advise you that EDF will actively and aggressively oppose your efforts should you vote to proceed as currently planned. Our position is based upon the limited information that you have been willing to share with us (and with others) to-date, a host of hugely-significant but still-unanswered questions, and the exclusive (rather than inclusive) process that has characterized your efforts from the outset, which we must also assume will, if you are successful, characterize your future activities as well.

For what it's worth, we come to this conclusion with considerable regret, having gone out of our way to publically endorse the idea of an "appropriate" devolution of CVP assets and operations, with every hope that a meaningful and inclusive process could in fact be established, to the benefit of all concerned. Unfortunately, that has not proven to be the case: the rush to conclude a deal for the purpose of fictional budgetary savings (and to limit therewith both reasoned debate and discussion on its particulars) has become more important than truly reaching out to the myriad interests who will be affected, in many cases dramatically, by your efforts. There is simply too much at stake--for the environment of course, but ultimately for all Californians--to mortgage our future in this manner.

With the above as context, the following questions provide a representative sampling of our ongoing concerns:

1. You have not responded to our initial set of questions on Smith-Barney's preliminary CVP valuation analysis (letter of June 2nd), including in particular how an assumed 1.4 million acre-foot increase in CVP deliveries can be accomplished without tremendous environmental or other water supply

National Headquarters

257 Park Avenue South  
New York, NY 10010  
(212) 505-2100

1875 Connecticut Ave. N.W.  
Washington, DC 20009  
(202) 387-3500

1405 Arapahoe Ave.  
Boulder, CO 80302  
(303) 440-2901

128 East Hargett St.  
Raleigh, NC 27601  
(919) 821-7793

1800 Guadalupe  
Austin, TX 78701  
(512) 473-5161

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impacts. We also wonder (as should your member groups) how a more realistic set of long-term CVP water delivery assumptions will affect your associated financial commitments. Yesterday's discussion did nothing to answer these questions.

2. Notwithstanding repeated requests, you have refused to provide us with a copy of the financial model upon which the valuation analysis is based. Could it be that there is something to hide in that model? If not, why not share it, as you apparently already have with the Congressional Budget Office?

3. Notwithstanding repeated requests (and early assurances) to the contrary, you have not provided us with copies of your draft legislative package. Do you really believe that the CVPA has a monopoly on good ideas in this regard? And what good does it do to review and discuss this legislation after it's been finalized?

4. You have also refused to provide for public review a copy of your baseline CVP operations analysis, even though it will be used, in part, to justify a hoped-for NEPA exemption. (As with your legislative package, you did commit to providing copies of that analysis "when it's ready"--though given your current timelines, such public review, if and when possible, will likely be all but meaningless.)

5. You have proposed a voting structure based on water supply and repayment shares that limits future decision making and governance to existing CVP water contractors. Nowhere has provision been made for meaningful or substantive participation by environmental, tribal, state, or other non-CVP interests; even CVP power users have only been assured that their participation will be negotiated if and when appropriate.

6. When queried as to how the above voting structure would enfranchise the fish and wildlife resources of the CVP (including explicit provision under the CVPIA of nearly 1.5 million acre feet of firm supplies for refuges, wildlife habitat areas, anadromous fishery restoration, and minimum Trinity River releases), we were advised that these would be handled through the (unseen) baseline operations analysis (i.e., no votes, trust us). This, of course, is a return to pre-CVPIA days, when water contractors made all the decisions, and when fish and wildlife needs were met, if at all, as an afterthought (with obvious consequences). This, suffice it to say, is simply unacceptable.

7. An Advisory Committee to include "non-contractors" has also been proposed, but that proposal is without any detail as to Advisory Committee structure, composition, or effect. (This appears to be a token response to concerns raised by the Northern California Water Association, one of the few water-user organizations apparently willing to say what they think.)

8. You have been unable to explain with any credibility how the Secretary's affirmative obligations under the CVPIA and other federal laws will in fact be accomplished under your proposal. How, in any case, would meeting such

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obligations and responsibilities affect the O&M cost savings that you have assumed will be realized on the basis of the largely-commendable but much more limited two-year track records of the Delta-Mendota and Tehama-Colusa Authorities? Moreover, what does the recent episode involving "emergency" use of the San Luis Drain tell us about other aspects of future non-federal operations and commitments?

9. Have you provided (or will you provide) any assurance that federal funds will be "off limits" for ongoing OM&R or capital construction purposes once a CVP ownership transfer has been implemented? You seem to be heading in just the opposite direction, leaving federal taxpayers responsible for all CVP liabilities (including safety of dams and purportedly unmet "drainage obligations" based on a decision of a federal district court in Fresno that directs the United States to pursue construction of the San Luis Drain to the Delta), but without any authority to address the underlying causes or problems.

10. You apparently hope to discount your preliminary acquisition price of \$826 million by more than \$200 million for such factors as deferred OM&R as well as the federal non-reimbursable share of annual O&M, notwithstanding the fact that associated taxpayer subsidies already amount to billions of federal dollars. (From EDF's point of view, your unadjusted net-present value estimate establishes, if anything, a highly-subsidized minimum reservation price--the only way to go from here is up.)

11. You have not been able to provide any details on how the integrity of the CVP Restoration Fund will be assured under your proposal. In your recent meeting with the Restoration Fund Roundtable, you also failed to hand out so much as a single piece of paper or number for a proposal that has huge potential implications for the long-term integrity of the Fund.

12. You have not been able or willing to provide any details on the post-acquisition apportionment of bond repayment obligations. How, we wonder, will defaults among member districts or agencies be addressed? Will the assets of individual landowners serve as collateral? How will "ability to pay" issues be handled? (We're still intrigued by your members' purported inability to repay taxpayer debts given their concomitant interest in buying the project, let alone their proven ability to hire high-priced consultants and lobbyists.) Will state taxpayers be expected to serve as the guarantor of last resort?

13. How does your proposal interface with current efforts to amend the CVP Improvement Act? Just as CVP contractors and their lobbyists have perpetrated the fiction that proposed changes to the CVPIA would have no bearing upon or relationship to the Bay/Delta Accord, so too have you maintained the fiction that the CVPIA amendment efforts have no relationship to your efforts. If you really mean what you say, you should commit to grounding your entire proposal on the CVPIA as enacted.

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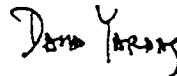
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14. How does your proposal interface with CalFed, BDAC, and the Bay/Delta long-term process? And what, for that matter, happened to the three-year period of "stasis" during which we could all work together towards mutually satisfactory solutions to problems throughout the Delta tributary watershed?

Needless to say, the above is but a sampling of the myriad questions and concerns that have yet to be answered or adequately addressed--no doubt other parties will continue to offer their own critiques and concerns. There is, in any case, still time for you to reconsider your strategy and come to the table with EDF and other interested parties to your proposal. If this takes a few months, or even a few years to accomplish, so be it: if a transfer of the CVP from federal ownership makes sense, it will make sense next year, or the year after that, on its own merits, as a stand alone bill, with all affected stakeholders having a voice. And if the deal actually makes money for Uncle Sam, no doubt there will still be a federal deficit against which to credit the associated revenue gains.

For the sake of everyone involved, we sincerely hope that you will reconsider your wreckless schedule and approach, open up your process in a meaningful and inclusive way, and take the time to do this right.

Sincerely yours,



David Yardas  
Senior Analyst